

REMARKS

Formal Matters

Preliminary Matters

Dealing with preliminary matters first, Applicant thanks the Examiner for acknowledging Applicant's claim to priority and receipt of the priority document.

Interview

Applicant thanks the Examiner, Mr. Jonathan Charles Teixeira Moffatt, and the Examiner's Supervisor, Mr. Mark Dubois, for the courtesies extended to Applicant's representative, Mr. Fadi Kiblawi, during the telephonic interview conducted on June 9, 2010. During the Interview, Applicant discussed independent claim 1 with regards to U.S. Patent Publication No. 20010004842 to Krajewski and U.S. Patent No. 4,569,235 to Conkle.

Disposition of Claims

Claims 1-7, 9-21 and 24-29 are all the claims pending in the application and are rejected. Claims 1-3, 6, 9-13, 18-21 and 24-29 have been amended herein. For the following reasons, it is submitted that the application is in condition for allowance.

Claim Objections

Claims 1 and 12 are objected to because of informalities. By this Response, claims 1 and 12 have been amended such that the Examiner's objections have been rendered moot.

Claim Rejections - 35 U.S.C. § 101

Claims 1-7, 9 and 26-27 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Specifically, with respect to claims 1 and 2, the Examiner states:

the broadest reasonable interpretation of "measuring" can include measuring by a human without the use of any particular machine or apparatus. In essence, "eyeballing" a flow to determine a "rate" such as fast, slow, or no flow. "Determining an operational condition" then can reasonably be a mental process for using the eyeballed information to come to a conclusion such as, "there is no flow because the machine is clogged" i.e. in a clogged "condition".

While Applicant respectfully disagrees with the examiner's interpretation (e.g. having apparently overlooked the need for an "extension means"), Applicant has amended both claims 1 and 2 to define that a flow sensor is used to conduct the measuring step.

With respect to claims 26 and 27, these claims have been amended as per the Examiner's suggestion. Thus, it is respectfully requested that this rejection be withdrawn.

Claim Rejections - 35 USC § 103

Claims 1-6, 9-16, 18-21 and 24-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Krajewski (U.S. Patent Publication No. 2001/0004842) in view of Conkle (U.S. Patent No. 4,569,235). Claims 7 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Krajewski and Conkle, and further in view of Stark (U.S. Patent No. 6439062). For the following reasons, Applicant respectfully traverses these rejections.

As an initial matter, Applicant maintains all arguments previously submitted and respectfully disagree with the examiner's "broadest reasonable interpretation" of the term "extension means" and its applicability to the device of Conkle.

Nonetheless, to advance prosecution and without prejudice, Applicant has amended each of independent claims 1, 2, 10, 12 and 18 to further distinguish the claimed invention from

Krajewski and Conkle. Consequential amendments have been made to dependent claims 3, 6, 11, 13, 19 and 26 to 29.

The independent claims have been amended to define a plurality of sample inlets with flow measurement being performed on one of the sample inlets and then subsequently repeated on at least one more of the sample inlets. The inventive concept the claims are seeking to highlight is that the apparatus of the invention can be used to measure the flow rate through one sample inlet then disconnected and the measurement repeated on at least one more sample inlet. The use of extension means enables this measurement to be taken remote from the sample inlet, i.e. at ground level, avoiding the need to climb up and down ladders to take a series of measurements. The person skilled in the art would appreciate that the sample inlets of the particle detection systems described are typically at ceiling level and almost certainly never at ground level even though this layout has not been specifically described in the patent specification.

Krajewski does not describe a device having a plurality of sample inlets and so is no longer relevant. Conkle does not describe using the one set of testing/measuring apparatus (i.e. one extension means) to take flow rate measurements in turn from a plurality of sample inlets.

Thus, it is submitted that the above amendments to the claims patentably distinguish the claims over the prior art.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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